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the evidence is concluded, the party tendering a demurrer to the evidence shall state in writing specifically the grounds of demurrer relied on and the demurree shall not be forced to join unless the grounds are stated, the failure of a demurrant to state the grounds of his demurrer to the evidence deprives the court of jurisdiction to consider it, notwithstanding the grounds were few in number and were understood by the demurree.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 351, 353; Dec. Dig. § 154.\* 4 Va.-W. Va. Enc. Dig. 519; 15 Va.-W. Va. Enc. Dig. 279.]

Error to Circuit Court, Mecklenburg County.

Action by C. H. Saunders against the Southern Railway Company. After verdict for plaintiff, subject to the action of the court on defendant's demurrer to the evidence, the demurrer was sustained, and plaintiff brings error. Reversed.

*John A. Lamb and S. A. Anderson*, both of Richmond, for plaintiff in error.

*Munford, Hunton, Williams & Anderson*, of Richmond, for defendant in error.

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DUGGINS et al v. WOODSON et al.

March 11, 1915.

[84 S. E. 652.]

**1. Curtesy (§ 5\*)—Estate—Right to Curtesy.**—Where a wife died leaving a child surviving, her husband was entitled to curtesy in her landed estate.

[Ed. Note.—For other cases, see Curtesy, Cent. Dig. §§ 11-15; Dec. Dig. § 5.\* 4 Va.-W. Va. Enc. Dig. 151.]

**2. Partition (§ 9\*)—Partition Agreement—Construction.**—Where a husband, who was entitled to a life estate in his wife's undivided interest in a tract of land, with the other heirs entitled to the property in fee, entered into an agreement providing for division of the land into equal parts and that he should have one of the parts, the agreement did not confer upon the husband an estate in fee.

[Ed. Note.—For other cases, see Partition, Cent. Dig. §§ 26-32; Dec. Dig. § 9.\* 10 Va.-W. Va. Enc. Dig. 817; 14 Va.-W. Va. Enc. Dig. 813; 15 Va.-W. Va. Enc. Dig. 781.]

**3. Ejectment (§ 86\*)—Burden of Proof.**—In ejectment, defendant, husband of a deceased daughter of plaintiff's ancestor, and succeeding to a life estate by virtue of birth of a child, has the burden of establishing title by inheritance from the child, and, there being

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

an entire absence of evidence as to such right, a judgment in his favor must be reversed.

[Ed. Note.—For other cases, see Ejectment, Cent. Dig. §§ 238-245; Dec. Dig. § 86.\* 4 Va.-W. Va. Enc. Dig. 904; 14 Va.-W. Va. Enc. Dig. 368; 15 Va.-W. Va. Enc. Dig. 321.]

**4. Adverse Possession (§ 43\*)—Running of Statute—Life Tenant.**—A life tenant, as a tenant by the curtesy, cannot hold adversely to the remaindermen; hence those succeeding him in possession cannot tack their adverse holding to the life tenant's holding.

[Ed. Note.—For other cases, see Adverse Possession, Cent. Dig. §§ 213-224; Dec. Dig. § 43.\* 1 Va.-W. Va. Enc. Dig. 218; 14 Va.-W. Va. Enc. Dig. 27; 15 Va.-W. Va. Enc. Dig. 27.]

**5. Limitation of Actions (§ 44\*)—Accrual of Right—Title to Real Property.**—Where defendants' predecessor acquired possession as a tenant by curtesy, limitations do not begin to run against the remaindermen and in favor of defendants until their possession has become notoriously tortious and adverse.

[Ed. Note.—For other cases, see Limitation of Actions, Cent. Dig. §§ 220-230, 232; Dec. Dig. § 44.\* 9 Va.-W. Va. Enc. Dig. 393; 15 Va.-W. Va. Enc. Dig. 621.]

Error to Circuit Court, Goochland County.

Ejectment by D. T. Duggins and others against Ishman R. Woodson and others. There was a judgment for defendants, and plaintiffs bring error. Reversed.

*Smith & Smith* and *A. G. Collins*, all of Richmond, for plaintiffs in error.

*W. D. Cardwell*, of Richmond, for defendants in error.